

APPEAL NO. 021136  
FILED JULY 1, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 28, 2002. The hearing officer determined that (1) the compensable injury of \_\_\_\_\_, did not include and extend to a fatality; and (2) the proper legal beneficiaries of the deceased are: MR, AR, DR Jr., MR, and RLR. The appellants (claimants) appeal the injury determination and beneficiary determination with regard to RMR on sufficiency of the evidence grounds. The respondent (carrier) responds that the claimants' appeal is untimely and, in the alternative, urges affirmance. The hearing officer's beneficiary determination with regard to the remaining named claimants was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

We first address the carrier's assertion that the claimants' appeal is untimely. Our review of the record reveals that the hearing officer's decision and order was mailed to the claimants on March 20, 2002, using a former address. The claimants' attorney represents that a copy of the hearing officer's decision was not received until April 17, 2002, when she received a facsimile copy from the Texas Workers' Compensation Commission's Hearings Division. A copy of the facsimile transmittal cover sheet is attached to the claimants' appeal. The claimants filed their appeal on May 8, 2002, fifteen days after receipt of the decision and order. The claimants' appeal is timely filed.

The hearing officer did not err in determining that the compensable injury did not include and extend to a fatality and that RMR is not a legal beneficiary of the deceased. These were questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the appealed determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION COMPANY  
350 NORTH ST. PAUL, SUITE 2900  
DALLAS, TEXAS 75201.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Roy L. Warren  
Appeals Judge